

Draft Regulations
Frequently Asked Questions – Chapter 3
Version 1.0 – April 5, 2013

Chapter III

ACCESSORY STRUCTURES – Structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

Q: Does the definition of ACCESSORY STRUCTURES (see above) include barns, sheds, guest homes, ect.

A: An accessory structure is any structure over 120 sq. ft. located on the property which is not the main structure used by the property owner. This definition would in fact cover sheds, cabins, etc. Guest homes would be reviewed by planning staff to determine if they should be considered accessory structures. Barns would be considered agricultural structures.

AGRICULTURAL BUILDING – A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged, nor shall it be a place used by the public.

Q: Often there are apartments in barns. Will these types of dual uses still be allowed? This seems like a lot of limits on what can and can't be done in an agri building. What about one time things like auctions or someone coming to buy livestock?

A: Any residential or additional use associated with a barn or other agricultural structure will be reviewed by the planning and building staff in order to determine what type of review will be necessary for approval. A single person buying livestock will be allowed but auctions are considered commercial uses and must be reviewed by planning staff.

BUFFER – Buffer area shall include but will not be limited to planted vegetation, natural vegetation, berm, or manufactured barrier such as a wall or screening fence with concealing properties to a height of up to seven (7) feet.

Q: Why are we including height here, can't a screen be any height?

A: That is correct. Berms may be whatever height is necessary to provide proper screening between different land uses. Staff examines a variety of factors including land use intensity and nuisance factors in defining adequate buffer height and material type.

CONSTRUCTION SPOIL means material of any nature which is removed or displaced during the construction or grading process

Q: This is not clear what qualifies as construction spoil? Does this definition include materials such as dirt, construction materials?

A: Any materials which remain on a construction site such as wood, metal, or gravel debris, as well as mined or harvested materials shall be included in this definition. This definition is intended to protect property owners and the community at large. Staff would like to prevent situations in which developed sites are not properly cleared or cared for.

CONTAMINATED means containing harmful quantities of pollutants

Q: Who determines what a pollutant is?

A: We have included a definition of pollutant in this chapter. Should there be a question over a particular material we will refer to the Arkansas Department of Environmental Quality in order to determine the status of a material. Staff will also refer in storm water situations to the definition of pollutants defined in the court ordered MS4.

KEY BOX – A secure device with a lock operable only by a fire department master key, and containing building entry keys and other keys that may be required for access in an emergency.

Q: Isn't this also referred to as a Knox Box? Do we have a definition of Knox Box?

A: We will add a definition for Knox Box. A Knox Box, known officially as the KNOX-BOX Rapid Entry System is a small, wall-mounted safe that holds building keys for fire departments

HARD SURFACE – Surfaces made from compactible materials such as SB-2, gravel, etc.

Q: What are some examples of hard surfaces? Would packed earth be included as a hard surface?

A: Asphalt, Concrete, and gravel are considered hard surfaced.

OFF-SITE NUISANCES – Include dust, smoke, odors, noise, vibration, light, glare, heat, etc. that affects property other than that on which it originates.

Q: Who decides what these are? At what levels are they unacceptable? Why do we need this?

A: Planning staff examines each land use application in order to determine if a potential nuisance is constituted by any proposed activities on a site for adjacent property owners. Acceptable nuisance levels may be determined by common sense, past history of similar activities, as well as appropriate measurements and metrics. Off –site nuisances are considered in planning board applications in order to protect property owners from offensive materials which may affect their properties.

PLANNING BOARD SERVICE OFFICER – The Planning Board Service Officer is the primary planning staff member with authority to sign off on administrative approvals and shall serve as the enforcement officer for violations of the Planning Regulations of Benton County, AR. The Planning Board Service Officer shall be the Director of the Department of Planning and Environmental Services or their designee.

Q: Please explain this position? Is this a new position? How will your staff handle this position along with other duties?

A: This position is usually included in the Planning Director duties. It is not a new position. The County Judge may also appoint any staff member he feels appropriate for the job.

NONCONFORMITY – Nonconformity or nonconforming use is a term used in land use laws to refer to an existing structure or use of a property which is not permitted under the current regulations either as a development or use that is not permitted generally or a development or use that has not received development approval under the existing regulations. Generally speaking, a use might become nonconforming through the adoption of new laws, or as the result of court case decisions. Lawfully established nonconforming uses are allowed to continue, but are subject to limitations. They may be “frozen” at the level of operation that existed at the time of implementation of a zone designation which made the use nonconforming.

Q: Please explain what non-conformity is. This is confusing. Don’t you mean grandfathering?

A: Yes, the term nonconforming, non-conformity, or nonconforming use or structure refers specifically to a use or structure that does not technically meet the requirements of the current regulations either by having some aspect of the use or structure that is not permitted such as a building built into a setback area, or that the use or structure did not receive the necessary planning approvals in place at the time.

Q: Does the definition of fertilizer include animal manure/litter in the definition of fertilizer?

A: The definition of fertilizer is based on our storm water ordinance but can be adjusted to include all types of fertilizer.

Q: Does the no adverse impact principle apply to farmers if adding to existing farming operations?

A: No all agricultural activity is exempt from this principal.

Q: Is it possible to include agri-tourism into the definition for temporary uses?

A: Yes agri-tourism events including hay rides, corn mazes, and seasonal tours should be included in the definition for temporary uses or may be included in the section on temporary uses